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10/591,839

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Myung-Kwan Kim

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EXAMINER

CHAN, ALLEN

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

06/30/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|-----------------------------------|--|
| Office Action Summary | Application No. 10/591,839 | Applicant(s) KIM ET AL. | |
| | Examiner ALLEN CHAN | Art Unit 3714 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 September 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In response to the Amendment filed on April 8th, 2010, claims 1, 2, 5, 6, 8 and 9 have been amended. Claims 1-10 are currently pending.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 8, it is unclear what the applicant means with the phrase "application receipt step". There is no clear definition in the specification as to what occurs in this step. In addition, nowhere in claims 5 or 6 is an "application" claimed. Thus, it is unclear how there can be an "application receipt step" if there is no application being claimed.

Claim 8 recites the limitation "the application receipt step" in the 6th line of the claim. There is insufficient antecedent basis for this limitation in the claim.

Claim 9 is rejected for incorporating the above errors from their respective parent claim by dependency.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rossides (US 5,575,474) in view of Mindes (US 5,573,244).

Regarding claims 1 and 5, Rossides discloses a method for a result prediction game service using a communication network, comprising an authentication step of authenticating customers who gain access (see col. 7, lines 10-44), an application/betting support step of providing information to customers authenticated at the authentication step to assist in making predictions of a result of a certain event and applying to purchase media (or make bets), which can each be redeemed for a certain amount when the predictions of the result of the certain event are correct, at amounts determined by the customers (see col. 8, line 60 through col. 9, line 17), a result receipt

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step of receiving the result of the certain event (see col. 12, lines 24-38), and a payout step of paying an amount to each of the customers who correctly predicted the result of the certain event, according to the result received at the result receipt step (see col. 12, lines 24-38). However, Rossides does not explicitly disclose subtracting a fee from the payout amount. Mindes discloses subtracting a fee/commission from the payout amount (see col. 1, lines 15-27). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method for a result prediction game service of Rossides to subtract a fee from the winner's payout amount as disclosed by Mindes in order for the house/casino to make a profit from brokering the transactions (see Mindes, col. 1, lines 15-27). Mindes also discloses that customers are informed of the return rates before making the predictions, where a user who places a bet is informed of the odds of the bet and the potential payoff prior to placing the bet (see col. 2, lines 23-25).

Regarding claims 2 and 6, Rossides discloses a trade/bet establishment step of establishing a trade of media/bet between a specific customer and another specific customer when a plurality of customers applies to purchase the media at the application/betting support step, wherein the specific customer's prediction of the result and the other specific customer's prediction of the result are different from each other, and a purchase condition set by the specific customer and purchase condition set by the other specific customer fulfill preset conditions (see col. 9, line 39 through col. 10, line 22).

Regarding claims 3 and 7, Mindes discloses that the trade/bet establishment step is performed in such a way as to establish a trade of media/bet between the specific customer and the other specific customer when a sum of the specific customer's unit purchase price and the other specific customer's unit purchase price is the certain amount or payout (see col. 9, lines 25-35)

Regarding claims 4 and 10, Mindes discloses that the house/casino deducts a fee/commission as discussed above. It would be a matter of design choice on how high or low this fee would be.

Regarding claim 8, Rossides discloses providing information to the customers authenticated at the authentication step can determine payout by predicting the result of the certain event and determining payouts by return rates and the betting amounts (see col. 9, lines 5-27). Mindes discloses a cross betting relationship according to a certain payout rate (see col. 14, lines 39-45).

Regarding claim 9, Mindes discloses a step of providing information to each of the customers applying to make bets to select at least one from among at least two return rates and input the return rate and a step of inputting betting amounts by making bets based on the selected return rate (see col. 8, lines 39-57 and col. 14, lines 39-45).

Response to Arguments

6. Applicant's arguments filed April 8th, 2010 have been fully considered but they are not persuasive.

Regarding applicant's argument that neither Rossides nor Mindes discloses or suggests all of the elements of independent claims 1 and 5, the examiner disagrees. With regards to the new limitation of "the customers being informed of determined return rates before making the predictions", the examiner notes that Mindes discloses this feature (see col. 2, lines 23-25). Additionally, it is well known in the art of gambling that a player is informed of a return rate before the player places a bet (i.e. showing a player odds that a sports team will win the game, odds for every bet shown on a roulette table, etc.).

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALLEN CHAN whose telephone number is (571)270-5529. The examiner can normally be reached on Monday through Thursday 9:00 AM to 7:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on (571) 272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ALLEN CHAN/
Examiner, Art Unit 3714
6/23/2010

/John M Hotaling II/
Primary Examiner, Art Unit 3714